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Attorneys for Defendant
GUILLERMO HERRERA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IVAN CERNA, *et al.*,

Defendants.

Case No. CR 08-0730 WHA

**“EXHIBIT 1” AND “EXHIBIT 2” TO
GUILLERMO HERRERA’S REPLY TO
GOVERNMENT’S RESPONSE TO
MOTION TO ENFORCE BRADY V.
MARYLAND**

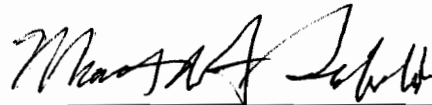
Mr. Herrera’s Reply to the Government’s Response to Mr. Herrera’s Motion to Enforce Brady v. Maryland was filed on June 3, 2009. Due to technical difficulties, defense counsel was unable to file the exhibits contemporaneously.

Therefore, the attached exhibits (“Exhibit 1” United States Department of Justice Press Release dated October 23, 2008, and “Exhibit 2” Unites States Immigration and Customs

1 Enforcement Press Release dated October 23, 2008) and are being filed in support of Mr.
2 Herrera's Reply filed on June 3, 2009.

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4 Dated: June 4, 2009

Respectfully submitted,

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8 Martin Sabelli, attorney for
9 Guillermo Herrera
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EXHIBIT 1



United States Department of Justice

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Northern District of California

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FOR IMMEDIATE RELEASE
OCTOBER 23, 2008
WWW.USDOJ.GOV/USAO/CAN

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Josh.Eaton@usdoj.gov

29 INDIVIDUALS INDICTED IN RACKETEERING PROBE TARGETING MS-13 GANG

Three-year Investigation Links Suspects To Murder, Drug And Firearms Trafficking

SAN FRANCISCO – Twenty-two individuals in the San Francisco Bay Area were indicted on federal racketeering and other charges arising from their participation in the Mara Salvatrucha (MS-13) gang, the U.S. Department of Justice and U.S. Immigration and Customs Enforcement (ICE) announced today. Seven additional individuals were also charged with non-racketeering offenses ranging from narcotics trafficking to firearms trafficking, and attempted exportation of stolen vehicles.

At a news conference in San Francisco, the United States Attorney for the Northern District of California Joseph P. Russoniello and ICE's Director of Investigations Marcy M. Forman outlined details of the undercover investigation, dubbed "Operation Devil Horns," in reference to MS-13's gang sign. The investigation culminated today with the unsealing of the 52-count indictment following the arrest yesterday of 26 of the indicted suspects. Additionally, two other individuals linked to the case were arrested yesterday based upon charges contained in a criminal complaint. Finally, agents involved in the take down also took custody of two suspects wanted on outstanding murder warrants by the San Francisco Police Department.

The indictment alleges that 22 of the defendants are members of MS-13 based in San Francisco's Mission District and Richmond, Calif., who agreed to conduct the affairs of the gang by engaging in a variety of criminal offenses, including murder, attempted murder, assault, robbery, extortion, witness tampering, narcotics trafficking, and the interstate transportation of stolen vehicles. According to the indictment, the investigation linked the defendants to various acts of violence committed in San Francisco and elsewhere, including murder and attempted murder. In addition to filing charges under the RICO Act (Racketeer Influenced and Corrupt Organizations), seven of the defendants in the case are also accused of committing seventeen specific violent crimes in aid of racketeering (VICAR), including one count involving murder.

"There can be no doubt that the greatest threat to the peace and well-being of so many of our communities in this district and throughout the country, for that matter, is the lethal cocktail of drugs, gangs and guns. And among the gangs we in law enforcement are determined to bring to heel, none is more vicious, dangerous and indifferent to the rule of law than MS-13. They may see themselves as heroes, may try to recruit members by emphasizing their 'machismo' and terrorize the community by engaging in acts of wanton violence, but they are neither invisible nor invincible," said United States Attorney Russoniello. "This coordinated effort by federal, state and local law enforcement agencies is but one more steady step in the process of taking back our communities and giving young people the chance to make meaningful good long-life choices... alternatives to the often short-term gratification that membership in a gang at best, offers.

While we are committed, we are not naive. Some may try to fill the vacuum this take-down creates. For them,

I suspect they will face the same fate as these defendants do, though they may not have to wait as long to be brought to justice. To any who still view these gangsters as heroes, I suggest they acquaint themselves with the location of and visitor schedules for federal prisons. They'll likely be spending a lot of their time there in the next several years."

"This investigation and the ensuing arrests have dealt a serious blow to what is arguably one of the most ruthless gang cliques currently operating in the Bay Area," said Marcy M. Forman, director of the ICE office of investigations. "As this case shows, transnational gangs like MS-13 thrive on violence, violence that is often fueled by profits from their illegal activities. Left unchecked, these activities threaten the welfare and safety of our communities. Our goal in targeting these dangerous street gangs is to disrupt their criminal activities and ultimately to dismantle the entire organization."

As part of the investigation, ICE set up an undercover storefront in Richmond, Calif., disguised as an export warehouse. From that location, an undercover officer posing as a corrupt car exporter, purchased 16 vehicles which had been allegedly stolen by MS-13 members and their associates from California residents. In addition, an undercover officer also purchased several firearms from one of the defendants between 2006 and 2007.

Over the course of three years, the investigation led to the seizure of more than 20 weapons, including three high-powered assault rifles, two machine pistols and three shotguns. One of those shotguns was equipped with a high capacity "magazine drum," allowing the weapon to be loaded with more than 20 rounds of ammunition at a time. Additionally, agents involved in the case made nine separate narcotics seizures involving cocaine and methamphetamine.

In a large-scale, targeted enforcement action carried out yesterday in San Francisco and in the Reno, Nev., area, federal, state and local agents and officers executed nearly two dozen search warrants and 20 arrest warrants related to the case. In addition, agents served search and arrest warrants at eight correctional facilities in California where 15 of the defendants named in the indictment were already incarcerated on other charges.

Officers and agents from numerous federal, state and local law enforcement agencies provided substantial support during yesterday's enforcement action, including the Drug Enforcement Administration (DEA); the California Highway Patrol; the California Department of Justice; the California Bureau of Narcotics Enforcement; the San Mateo County Gang Task Force; and the Richmond, San Francisco and South San Francisco police departments. ICE received assistance with the investigation itself from the DEA; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the Federal Bureau of Investigation; the California Highway Patrol; the San Francisco Police Department; and other local law enforcement agencies. In addition, the El Salvadoran National Police and ICE's Attaché Office in El Salvador aided with the case by conducting searches and interviews of MS-13 associates in El Salvador.

In addition to yesterday's criminal arrests, ICE agents also took 11 gang members and gang associates into custody on administrative immigration violations. Those individuals will be held by ICE pending a deportation hearing before an immigration judge.

The arrests announced today are not the first stemming from the ongoing investigation. Over the course of the probe, 17 gang members have been taken into custody on criminal charges, including firearms violations and re-entry after deportation. Some of those individuals are among those named in the new RICO indictment.

The investigation leading to yesterday's arrests is part of Operation Community Shield, a comprehensive initiative launched by ICE in 2005 to disrupt and dismantle transnational street gangs. Under Operation Community Shield, ICE partners with federal, state and local law enforcement agencies to target these violent organizations and their members for arrest, prosecution, and, where applicable, deportation. Since 2005, ICE

has arrested more than 11,100 gang members and associates from 890 different gangs as part of Operation Community Shield. Of those arrested, 145 were gang leaders. To date, 3,997 have been charged criminally, and 7,109 have been charged with immigration violations and processed for removal.

The case is being prosecuted by Assistant U.S. Attorney Wai Shun Wilson Leung of the U.S. Attorney's Office for the Northern District of California and Trial Attorney Laura Gwinn of the Criminal Division's Gang Squad.

An indictment contains only allegations against an individual and, as with all defendants, these defendants must be presumed innocent unless and until proven guilty.

Further Information:

A copy of this press release may be found on the U.S. Attorney's Office's website at www.usdoj.gov/usao/can.

Electronic court filings and further procedural and docket information are available at <https://ecf.cand.uscourts.gov/cgi-bin/login.pl>.

Judges' calendars with schedules for upcoming court hearings can be viewed on the court's website at www.cand.uscourts.gov.

All press inquiries to the U.S. Attorney's Office should be directed to Joshua Eaton at (415) 436-6958 or by email at Josh.Eaton@usdoj.gov.

This site does not contain all press releases or court filings and is not an official record of proceedings. Please contact the Clerk of Courts for the United States District Court for official copies of documents and public information.

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EXHIBIT 2

[Skip Navigation](#)

U.S. Immigration
and Customs
Enforcement

U.S. Immigration and Customs Enforcement

News Releases

October 23, 2008

29 Individuals Indicted in Racketeering Probe Targeting MS-13 Gang ***Three-year investigation links suspects to murder, drug and firearms trafficking***

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-- ICE --

U.S. Immigration and Customs Enforcement (ICE) was established in March 2003 as the largest investigative arm of the Department of Homeland Security. ICE is comprised of five integrated divisions that form a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities.

Last Modified: Thursday, October 23, 2008

DECLARATION OF SERVICE BY HAND DELIVERY

RE: United States of America vs. Ivan Cerna, *et al.*, Case No. CR 08-0730 WHA

I, Brett Abraham, declare that I am over 18 years of age and not a party to the within cause; my business address is 703 Market Street, Suite 550, San Francisco, CA, 94103. On June 04, 2009, I served a true copy of the following:

"EXHIBIT 1" AND "EXHIBIT 2" TO GUILLERMO HERRERA'S REPLY TO GOVERNMENT'S RESPONSE TO MOTION TO ENFORCE BRADY V. MARYLAND

on the following by hand delivery as follows:

Wai Shun Wilson Leung
United States Attorney's Office
450 Golden Gate Avenue
Box 36055
San Francisco, CA 94121

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 04, 2009, at San Francisco, California.


BRETT ABRAHAM